APPENDIX.

Excerpts From Treaties, and Statutes.

TREATIES.

Indian—Creek Tribe:

Treaty of January 24, 1826 (7 Stat. 286).

Preamble:

"* * * And whereas the United States are unwilling that difficulties should exist in the said Nation which may eventually lead to an internecine war, and are still more unwilling that any cessions of land should be made to them, unless with the fair understanding and full assent of the Tribe making such cession, *and for a just and adequate consideration, it being the policy of the United States, in all their intercourse with the Indians, to treat them justly and liberally, as becomes the relative situation of the parties.* * * *" (Emphasis ours)

Article 13:

"*The United States agree to guarantee to the Creeks all the country, not herein ceded,* to which they have a just claim, and to make good to them any losses they may incur in consequence of the illegal conduct of any citizen of the United States within the Creek country." (Emphasis ours)

Treaty of March 24, 1832. (7 Stat. 366).

Article 14:

"*The Creek country west of the Mississippi shall be solemnly guaranteed to the Creek Indians,* nor shall any State or Territory ever have a right to pass laws for the government of such Indians, but they shall be allowed to *govern themselves,* so far as may be compatible with the general jurisdiction which Congress may think proper to exercise over them. And the United States will also defend them from the unjust hostilities of other Indians, and will also as soon as the boundaries of the Creek country West of the Mississippi are ascertained, cause a patent or grant to be

executed to the Creek tribe; agreeably to the 3d section of the Act of Congress of May 2d, (28) 1830, entitled 'An Act to provide for an exchange of lands with the Indians residing in any of the States, or Territories, and for their removal West of the Mississippi.' "
(Emphasis ours)

Treaty of February 14, 1833 (7 Stat. 417).

Article 3:

"The United States will grant a patent, in fee simple, to the Creek nation of Indians for the land assigned said nation by this treaty or convention, whenever the same shall have been ratified by the President and Senate of the United States—and the right thus guaranteed by the United States shall be continued to said tribe of Indians, so long as they shall exist as a nation, and continue to occupy the country hereby assigned them."

Treaty of June 14, 1866 (14 Stat. 785).

Article 3:

"In compliance with the desire of the United States to locate other Indians and freedmen thereon, the Creeks hereby cede and convey to the United States, to be sold to and used as homes for such other civilized Indians as the United States may choose to settle thereon, the west half of their entire domain, to be divided by a line running north and south; *the eastern half of said Creek lands, being retained by them shall, except as herein otherwise stipulated, be forever set apart as a home for said Creek Nation;* and in consideration of said cession of the west half of their lands, estimated to contain three millions two hundred and fifty thousand five hundred and sixty acres, *the United States agree to pay the sum of thirty (30) cents per acre,* amounting to nine hundred and seventy-five thousand one hundred and sixty-eight dollars, * * *". (Emphasis ours)

Article 12:

"*The United States reaffirms and reassumes all obligations of treaty stipulations with the Creek nation*

entered into before the treaty of said Creek nation with the so-called Confederate states, July tenth, eighteen hundred and sixty-one, not inconsistent herewith; and further agrees to renew all payments of annuities accruing by force of said treaty stipulations from and after the close of the present fiscal year, June thirtieth, eighteen hundred and sixty-six, except as is provided in article eleventh." (Emphasis ours)

STATUTES.

Indian—Five Civilized Tribes:

Act of May 28, 1830 (4 Stat. 411, 412).

Section 3:

"*And be it further enacted,* That in the making of any such exchange or exchanges, it shall and may be lawful for the President solemnly to assure the tribe or nation with which the exchange is made, *that the United States will forever secure and guaranty to them, and their heirs or successors, the country so exchanged with them;* and if they prefer it, *that the United States will cause a patent or grant to be made and executed to them for the same:* Provided always, That such lands shall revert to the United States, if the Indians become extinct, or abandon the same." (Emphasis ours)

Act of March 3, 1893 (27 Stat. 612, 645).

Section 15:

"The consent of the United States is hereby given to the allotment of lands in severalty not exceeding one hundred and sixty acres to any one individual within the limits of the country occupied by the Cherokees, Creeks, Choctaws, Chickasaws, and Seminoles; and upon such allotments the individuals to whom the same may be allotted shall be deemed to be *in all respects citizens of the United States.* * * *"

Section 16:

"The President shall nominate and, by and with the advice and consent of the Senate, shall appoint three commissioners to enter into negotiations with the Cherokee Nation, the Choctaw Nation, the Chickasaw

Nation, the Muscogee (or Creek) Nation, the Seminole Nation, *for the purpose of the extinguishment of the national or tribal title to any lands* within that Territory now held by any and all of such nations or tribes, either by cession of the same or some part thereof to the United States, or by the allotment and division of the same in severalty among the Indians * * *." (Emphasis ours)

Act of June 28, 1898 (30 Stat. 495, 497).

Section 11:

"* * * Provided further, That the lands allotted shall be non-transferable until after full title is acquired and shall be liable for no obligations contracted prior thereto, by the allottee, *and shall be nontaxable while so held.* * * *" (Emphasis ours)

Indian—Creek Tribe:

Act of March 1, 1901 (31 Stat. 861).

Section 7:

"Lands allotted to citizens hereunder shall not in any manner whatsoever, or at any time, be incumbered, taken, or sold to secure or satisfy any debt or obligation contracted or incurred prior to the date of the deed to the allottee therefor and such lands *shall not be alienable by the allottee or his heirs at any time before the expiration of five years* from the ratification of this agreement, except with the approval of the Secretary of the Interior.

"Each citizen shall select from his allotment forty acres of land as a homestead, which shall be nontaxable and inalienable and free from any incumbrance whatever for *twenty-one years*, for which he shall have a separate deed, conditioned as above: * * *

"The homestead of each citizen shall remain, after the death of the allottee, for the use and support of children born to him after the ratification of this agreement, but if he have no such issue, then he may dispose of his homestead by will, free from limitation herein imposed, and if this be not done, the land shall descend to his heirs according to the laws of descent and dis-

tribution of the Creek Nation, free from such limitation." (Emphasis ours)

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Section 44:

"This agreement shall in no wise affect the provisions of existing treaties between the United States and said tribe except so far as inconsistent therewith."

Act of June 30, 1902 (32 Stat. 500).

Section 16:

"Lands allotted to citizens shall not in any manner whatever or at any time be encumbered, taken, or sold to secure or satisfy any debt or obligation nor be alienated by the allottee or his heirs before the expiration of five years from the date of the approval of this suplemental agreement, except with the approval of the Secretary of the Interior. Each citizen shall select from his allotment forty acres of land, or a quarter of a quarter section, as a homestead, which shall be and remain nontaxable, inalienable, and free from any incumbrance whatever for twenty-one years from the date of the deed therefor, and a separate deed shall be issued to each allottee for his homestead, in which this condition shall appear. * * *"

Indian—Five Civilized Tribes:

Act of April 26, 1906 (34 Stat. 137).

Section 19:

"That no full-blood Indian of the Choctaw, Chickasaw, Cherokee, Creek, or Seminole tribes *shall have power to alienate, sell, dispose of, or encumber in any manner any of the lands allotted to him for a period of twenty-five years from and after the passage and approval of this act,* unless such restriction shall, prior to the expiration of said period, be removed by Act of Congress; and for all purposes the quantum of Indian blood possessed by any member of said tribes shall be determined by the rolls of citizens of said tribes approved by the Secretary of the Interior: * * * *Provided further, That all lands upon which restrictions are removed shall be subject to taxation, and the other lands*

shall be exempt from taxation as long as the title remains in the original allottee." (Emphasis ours)

Section 23:

"Every person of lawful age and sound mind may by last will and testament devise and bequeath all of his estate, real and personal, and all interest therein: *Provided,* That no will of a full-blood Indian devising real estate shall be valid, if such last will and testament disinherits the parent, wife, spouse, or children of such full-blood Indian, unless acknowledged before and approved by a judge of the United States court for the Indian Territory, or a United States Commissioner."

Act of May 27, 1908 (35 Stat. 312).

"* * * All homesteads of said allottees enrolled as mixed-blood Indians having half or more than half Indian blood, including minors of such degrees of blood, *and all allotted lands of enrolled full-bloods, and enrolled mixed-bloods of three-quarters or more Indian blood,* including minors of such degrees of blood, shall not be subject to alienation, contract to sell, power of attorney or any other incumbrance prior to April twenty-sixth, nineteen hundred and thirty-one, except that the Secretary of the Interior may remove such restrictions, wholly or in part, under such rules and regulations concerning terms of sale and disposal of the proceeds for the benefit of the respective Indians as he may prescribe. * * *" (Emphasis ours)

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Section 4:

"That all lands from which restrictions have been or shall be removed shall be subject to taxation and all other civil burdens as though it were the property of other persons than allottees of the Five Civilized Tribes: Provided, That allotted lands shall not be subjected or held liable, to any form of personal claim, or demand, against the allottees arising or existing prior to the removal of restrictions, other than contracts heretofore expressly permitted by law."

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Section 8:

"That section twenty-three of an Act entitled 'An Act to provide for the final disposition of the affairs of the Five Civilized Tribes in the Indian Territory, and other purposes,' approved April twenty-sixth, nineteen hundred and six, is hereby amended by adding at the end of said section, the words 'or a judge of a county court of the State of Oklahoma.'

Act of May 10, 1928 (45 Stat. 495) *as amended by the Act of May 24, 1928* (45 Stat. 733).

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the restrictions against the alienation, lease, mortgage, or other encumbrance of the lands alotted to members of the Five Civilized Tribes in Oklahoma, enrolled as of one-half or more Indian blood, be and they are hereby, extended for an additional period of twenty-five years commencing on April 26, 1931: * * *".

Section 3:

"That all minerals, including oil and gas, produced on or after April 26, 1931, from restricted allotted lands of members of the Five Civilized Tribes in Oklahoma, or from inherited restricted lands of full-blood Indian heirs or devisees of such lands, shall be subject to all State and Federal taxes of every kind and character the same as those produced from lands owned by other citizens of the State of Oklahoma; and the Secretary of the Interior is hereby authorized and directed to cause to be paid, from the individual Indian funds held under his supervision and control and belonging to the Indian owners of the lands, the tax or taxes so assessed against the royalty interest of the respective Indian owners in such oil, gas, and other mineral production."

Section 4:

"That on and after April 26, 1931, the allotted, inherited, and devised restricted lands of each Indian of the Five Civilized Tribes in excess of one hundred and sixty acress shall be subject to taxation by the State of

Oklahoma under and in accordance with the laws of that State, and in all respects as unrestricted and other lands: Provided, That the Indian owner of restricted land, if an adult and not legally incompetent, shall select from his restricted land a tract or tracts, not exceeding in the aggregate one hundred and sixty acres, to remain exempt from taxation, and shall file with the Superintendent of the Five Civilized Tribes, a certificate designating and describing the tract or tracts so selected: * * * and said lands, designated and described in the approved certificates, so recorded, shall remain exempt from taxation while the title remains in the Indian designated in such approved and recorded certificate, or in any full-blood Indian heir or devisee of the land: Provided, That the tax exemption shall not extend beyond the period of restrictions provided for in this Act: And Provided further, That the tax exempt land of any such Indian allotees, heir or devisee shall not at any time exceed one hundred and sixty acres."

Act of January 27, 1933 (47 Stat. 777).

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That all funds and other securities now held by or which may hereafter come under the supervision of the Secretary of the Interior, belonging to and only so long as belonging to Indians of the Five Civilized Tribes in Oklahoma of one-half or more Indian bloods, enrolled or unenrolled, are hereby declared to be restricted and shall remain subject to the jurisdiction of said Secretary until April 26, 1956, subject to expenditure in the meantime for the use and benefit of the individual Indians to whom such funds and securities belong, under such rules and regulations as said Secretary may prescribe: Provided, That where the entire interest in any tract of restricted and tax-exempt land belonging to members of the Five Civilized Tribes is acquired by inheritance, devise, gift, or purchase, with restricted funds, by or for restricted Indians, such lands shall remain restricted and tax-exempt during the life of and as long as held by such restricted Indians, but not longer than April 26, 1956, unless the restrictions are removed in the meantime in the manner pro-

vided by law: Provided, further, That such restricted and tax-exempt land held by anyone, acquired as herein provided, shall not exceed one hundred and sixty acres: And provided further, That all minerals including oil and gas, produced from said lands so acquired shall be subject to all State and Federal taxes as provided in section 3 of the Act approved May 10, 1928 (45 Stat. 495)."

REVENUE:

Revenue Act of 1926, c. 27, 44 Stat. 9.

"Sec. 302 (as amended by Sec. 404 of the Revenue Act of 1934). The value of the gross estate of the decedent shall be determined by including the value at the time of his death of *all property, real or personal, tangible or intangible,* wherever situated, except real property situated outside the United States—

"(a) *To the extent of the interest therein of the decedent at the time of his death;* * * *" (Emphasis ours)